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Attorney Docket No. P63142US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Roger Nitsch et al.

Application No.: 09/806,509

Group Art Unit: 1649

Filed: July 23, 2001

Examiner: Olga N. Chernyshev

For METHODS OF DIAGNOSING ALZHEIMER'S DISEASE

TRANSMITTAL

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith please find:

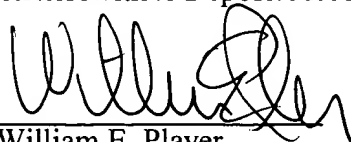
- ☒ Response to Restriction Requirement
- ☐ Petition for extension of time
- ☐ Fee payment
 - ☐ Payment Form PTO-2038 (credit card) for \$ * is attached.
 - ☐ Charge \$ * to Deposit Account No. 06-1358.
 - ☐ Small entity status established in connection with the subject application.

Fee Calculation					
Excess Claims					
	Nº of Claims	Highest Nº Paid For	Excess Claims	Small Entity Fee	Large Entity Fee
Total	*	⊖ * =	0	⊗ \$25 = \$	⊗ \$50 = \$
Ind.	*	⊖ * =	0	⊗ \$100 = \$	⊗ \$200 = \$
() Multiple Dependent Claims (1 st Filing)				⊕ \$180 =	⊕ \$360 = \$
Excess Claims Fee				\$	\$
Extension of Time Fee				\$	\$
Other:				\$	\$
Total Fee Due				\$0	\$0

- ☒ If a petition for extension of time is necessary, but not enclosed, then this acts as the petition. Charge any fees additionally necessary in connection herewith to Deposit Account No. 06-1358.

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Date: March 30, 2006

By


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R:\rthomas\wep\2006\March\P63142US1 tm for resp. to restric. req.wpd



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**RESPONSE
TO RESTRICTION REQUIREMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

This paper responds to the Office Action (restriction requirement) mailed March 3, 2006.

Pursuant to the restriction requirement under 35 USC 121, election is made, hereby, to prosecute invention Group II, claims 1-22, with traverse.

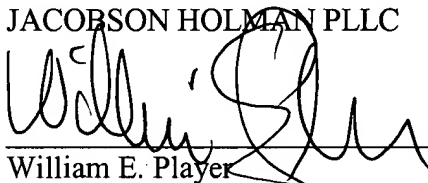
Traverse is maintained because restriction would result in dividing a proper generic claim, which is improper. It is well established that a claim cannot be subject to restriction under §121 merely because allegedly independent and distinct inventions fall within the generic scope of the claim and, further, it is improper because it would violate a patent applicant's right "to have *each* claim examined.". *In re Weber*, 198 USPQ 328-332 (CCPA 1978). *In re Haas* ("*Haas I*"), 179 USPQ 623 (CCPA 1973).

Favorable action is requested.

Respectfully submitted,

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